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10/522,182	02/01/2006	Isabelle Peslerbe	264543US41XPCT	3645
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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P. 1940 DUKE STREET ALEXANDRIA, VA 22314				
EXAMINER SAVAGE, JASON L				
ART UNIT		PAPER NUMBER		
1794				
NOTIFICATION DATE		DELIVERY MODE		
10/16/2009		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/522,182

Applicant(s)

PESLERBE ET AL.

Examiner

JASON L. SAVAGE

Art Unit

1794

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 22 September 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 22, 24, 26, 34 and 36-47.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/JENNIFER MCNEIL/
Supervisory Patent Examiner, Art Unit 1794

Continuation of 3. NOTE: Applicant argues that no new issues are raised by the Amendment to claim 38 stating the changes are believed to be minor in nature. However, the amendment to claim 38 which makes the claim independent resultantly broadens the scope of the claim creating new issues that would require further consideration and/or search. As such, the proposed Amendment has not been entered..

Continuation of 11. does NOT place the application in condition for allowance because: Applicant argues that the prior art of Ress in view of Sagel would not read on the presently claimed invention. Applicant states that Ress teaches forging only the core 23 and not the entire blade comprising the core 23 and the casing 22a.

However, as set forth in the rejection, the claims are drawn to an article, not the method of making. Applicant has produced no evidence showing how the claimed article which undergoes a forging step of unspecified process parameters would be any different from the article formed by the prior art. Since Applicant has provided no evidence showing how the resultant article would differ, it is not considered to be distinct from the article of the prior art.

Furthermore, Ress teaches that a wrought processing operation, ie forging, may be performed on a cast alloy formed component core (col. 4, ln. 61-65). Although Ress teaches that this forging step can occur prior to having the casing applied, it is known in the art that forging of a component can avoid the formation of imperfections due to casting. As such, it would have further been obvious to have modified the blade by applying a casing 22a to the core 23 and forge bonding in order to avoid formation of imperfections in the casing 22a formed by casting. Absent a teaching of the criticality or showing of unexpected results, the recited method limitation would not provide a patentable distinction for the claimed article.

Regarding claim 38, Ress teaches that it is known to form metallurgical connections by various bonding methods including forge bonding (col. 3, ln. 30-42). It would have been obvious to have formed the metallurgical bonding connection between the core 23 and casing 22a by any conventional method including a forge bonding method disclosed by Ress with a reasonable expectation of success.

Applicant also argues that while Sagel describes a blade produced from Ti-Al, no aluminum alloy is mentioned for the wear-resistant layer 6. Applicant states that while a wear resistant layer made from an alloy of Al is disclosed in column 4, lines 62-67, it is applied to a bladed rotor produced from carbon fiber-reinforced plastic. However, it is the position of the Examiner that Applicant has read the disclosure of the prior art too narrowly. Sagel teaches a blade having a wear-resistant layer 6 applied thereto (col. 4, ln. 20-24). Sagel further teaches a variety of materials as the wear resistant layer 6 including the use of a layer substantially comprising an alloy of Al (col. 2, ln. 54-57). As such, Sagel teaches blades 7 such as aluminum based blades, having a wear-resistant layer 6 such as an aluminum based layer applied thereto. It would have been obvious to have applied a wear resistant aluminum based layer 6 to an aluminum based blade 7 with a reasonable expectation of success since Sagel teaches the use of the recited materials.

Regarding Applicant's remarks regarding Pankratz, Applicant recites Pankratz does not disclose or suggest forging a composite structure formed with several components linked together or linking said components through a compressing step before a forging step. However, this argument does not appear to be commensurate in scope with the claims as there are no limitations drawn to linking several components together. Furthermore, Pankratz is merely provided as evidence that the use of a forged portion in place of a cast formed portion is known to be desirable so as to avoid the formation of internal imperfections. As such, the use of a forged casing in place of a cast casing such as recited in the prior art of Ress would have been considered obvious for the reasoning set forth in the rejection and above.